

REMARKS

The Applicants thank the Examiner for the courtesy of a personal interview on August 3, 2004.

The following remarks are fully and completely responsive to the Office Action dated February 26, 2004. Claims 1-8, 10-12 and 14-22 are pending in this application with claims 9 and 13 cancelled by the present Amendment. In the outstanding Office Action, claim 14 was objected to under 37 C.F.R. § 1.75(a); and claims 1-22 were rejected under 35 U.S.C. § 102(b). No new matter has been added. Claims 1-8, 10-12 and 14-22 are presented for reconsideration.

Claim Objection

Claim 14 was objected to under 37 C.F.R. § 1.75(a) because this claim recited both an apparatus and steps. As discussed in the personal interview, the above amendments to claim 14 overcome the objection to this claim under 37 C.F.R. § 1.75(a). Consequently, Applicants respectfully request reconsideration and withdrawal of the objection to claim 14.

35 U.S.C. § 102(b)

Claims 1-22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Nishio et al. (U.S. Patent No. 5,848,154). In making this rejection, the Office Action takes the position that this reference discloses each and every element of the claimed invention.

As discussed and agreed in the personal interview, the above amendments to the independent claims distinguish these claims from Nishio. Accordingly, Nishio fails to teach and/or suggest the claimed invention.

Regarding claim 1, Nishio fails to teach and/or suggest the function of “counting and storing a frequency of reproductions for each information, wherein each information has a sum total.” Similarly, Nishio fails to teach and/or suggest the function of “controlling reproduction based on an order of said sum totals obtained by said totaling means.” Therefore, Nishio fails to teach and/or suggest either the totaling means or the control means recited in claim 1.

Regarding independent claim 10, Nishio fails to teach and/or suggest either “a totaling step for counting and storing a frequency of reproductions for each information, wherein each information has a sum total” or “a control step for controlling reproduction based on an order of said sum totals produced by the totaling step”.

Regarding claim 14, Nishio fails to teach and/or suggest counting a frequency of reproductions performed for each information; storing the frequency of reproductions for each information into storing means; and controlling reproduction by reproducing means based on an order of the frequency of reproductions for each information stored by the storing means.

Regarding claim 15, Nishio fails to teach and/or suggest either “a totaling counter counting and storing a frequency of reproductions for each information, wherein each information has a sum total” or “a controller controlling reproduction based on an order of said sum totals for each information obtained by said totaling counter”.

Accordingly, Nishio fails to teach and/or suggest the invention recited in the independent claims. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-8, 10-12 and 14-22 under 35 U.S.C. § 102(b).


Conclusion

Applicants' remarks have overcome the objection and rejections set forth in the Office Action dated February 26, 2004. Specifically, Applicants' amendment to claim 14 has overcome the objection to claim 14 under 37 C.F.R. § 1.75(a). Applicants' remarks have distinguished claims 1-8, 10-12 and 14-22 from Nishio, and thus overcome the rejection of these claims under 35 U.S.C. § 102(b). Accordingly, claims 1-8, 10-12 and 14-22 are in condition for allowance. Therefore, Applicants respectfully request reconsideration and allowance of claims 1-8, 10-12 and 14-22.

Applicants submit that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned attorney by telephone if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not considered to be timely filed, Applicants hereby petition for an appropriate extension of time. The Commissioner is authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300, making reference to attorney docket number 107156-00083.

Respectfully submitted,
ARENT FOX PLLC



Rustan J. Hill
Registration No. 37,351

Customer No. 004372
ARENT FOX PLLC
1050 Connecticut Avenue, N.W.,
Suite 400
Washington, D.C. 20036-5339
Tel: (202) 857-6000
Fax: (202) 638-4810

RJH/elz

Enclosures: Petition for Extension of Time

TECH/255444.1